

# **Notice of Allowability**

Application No.

09/682,769

Examiner

Joyce Tung

Applicant(s)

RANGWALA ET AL.

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/15/2003.
2. ☒ The allowed claim(s) is/are claim 11 (final claim 1).
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

- |  |   |
|--|---|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                    | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____             |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____  | 7 <input type="checkbox"/> Examiner's Amendment/Comment                             |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other _____  |

### **THE REASONS FOR ALLOWANCE**

Following entry the amendment filed 9/15/2003, the claim 7 is pending.

1. The following is an examiner's statement of reasons for allowance:

Concerning claim 7, no prior art has been found teaching or suggesting the method of detecting the presence of PV-GHGT07(1445) cotton event in a sample comprising cotton DNA in which the method applies the sequence of SEQ ID NO 5 or SEQ ID NO: 6 as probe in stringent hybridization conditions and then detecting hybridization of the probe to the DNA.

The closest prior art is the reference of Fincher et al.. Fincher et al. disclose a method of making transgenic plant cotton, which is glyphosate tolerant transgenic plant (See column 23, lines 11-18, column 38, lines 29-67 and column 39, lines 28-67). Fincher et al. also disclose that the promoter sequence used for constructing transgenic plant can hybridize under stringent condition to a target DNA sequence (See column 15, lines 6-41). The suitable target is cotton, which can be used for the identification of gene and regulatory sequence (See column 13, lines 39-63). Fincher et al. also disclose that commercial standard line is line 1445 (pMON17136) that contains the P-FMV promoter driving sequence expression of the CTP2-aroA:CP4 gene/E9 3' (See column 38, lines 59-63) coding sequence for glyphosate tolerant phenotype (See column 38, lines 4-9 and lines 32-40). It appears that the PV-GHGT07(1445) is equivalent to pMON17136 since both are glyphosate tolerant. However Fincher et al. do not disclose SEQ ID NO: 5 or SEQ ID NO:6 used as probe to detect the presence of PV-GHGT07(1445) cotton event in a sample.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

Art Unit: 1637


fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joyce Tung whose telephone number is 703 (305) 7112. The examiner can normally be reached on Monday - Friday, 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Benzion can be reached on 703 308 1119. The fax phone number for the organization where this application or proceeding is assigned is 703 (305) 3014.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 (308) 0196.

Joyce Tung  
December 9, 2003



**ETHAN WHISENANT**  
**PRIMARY EXAMINER**